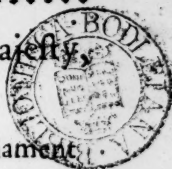


To the KINGS most Excellent Majesty,

And the

Lords and Commons now assembled in Parliament.



(11)

*Reasons offered in order to the passing an Act of Parliament against Imprisonment by Arrests upon the Writs of Capias, Bills of Middlesex & Latitats, Outlawries, and vexatious, dilatory Writs of Error as novv practised.*



LL Pleas are either *Placita Corona*, Mirror.cap. 1. otherwise called *Criminalia*; or *Communium*, otherwise called *Civilia*. Sect. 4. Stamf. pl. cor. fol. 1.

In all criminal causes, whereto the King was alwayes a party, the bodies of men at the Common Law, were subject to Arrests, and Imprisonments: So where the Action was *vi & Armis*, a *Capias* Lay in Proceſs, and in such case a *Capias* Lay after judgement, the King might have a *Capias pro fine*; And where a man was a Debtor, or Accomptant to the King, His Body, Goods, and Lands were liable to the execution of the King. Cooke 2. Inst. fol. 2. 2.

Sir Will. Hey. berts case, c. 3. Rept. Cookes 2 Inst. f. 394.

Mr. Kitchenfaith, That by the Ancient Common Law of the Land, the Proceſs in Common Pleas was Summons, Attachment; and Distresse infinite; the *Distress* being successively distant fifteen dayes one from another. Kirchemetorn. Brev. f. 4. tit. Com. Banc.

A

At

*Westm. Her-  
beris Case 3.  
Rept.  
Cokes 1. In-  
stit. fol. 394.*

At the Common Law, where a Subject recovered a judgement for Debt or Damages, he could not (except in some particular cases) take the Body of the Defendant in Execution, or his Lands, But his Goods and Chattels, and the profits of his Lands; For which purpose, The Law gave two several Writs, one a *Levari facias* whereby the Sheriff was commanded *Quod de terris & Catallis levare faciat*, &c. And the other a *Fieri facias*, which was onely, *De bonis & Catallis*.

*Cokes 2. Instit.  
ibid.*

This being the Ancient Common Law of the Land, That the Body should not be taken in Execution for Debt or Damages, unless it were in special cases; The Lord Cooke saith, That the reason thereof was, That the person should be at Liberty, not onely to follow his affaires and business; but should be ready to serve the King, and the Country when need should require.

*Magna Charta.  
cap. 29.*

*Magna Charta* confirms the Law and usage in this particular, Chap. 29. which was made in the 9<sup>th</sup>. year of H. 3. which establisheth, *Quod nullus liber homo capiatur, aut imprisonetur, &c. nisi per iudicium parium suorum, vel per legem terra.*

*Marlbridge.  
cap. 23.*

The first Act of Parliament, That made the person liable to an Arrest in Common Pleas, was *Marlbridge cap. 23.* made 25. H. 3. Whereby a *Capias* was given in Accompt, if the Accomptant had not Lands, whereby to be distrained.

*Coke 1. Instit.  
fol. 143.*

The mischief before this Statute (saith the Lord Cook) was, That the Accomptants, (seeking *Subterfuges*) did withdraw themselves, and became Vagrant, flying to secret places, sometimes into Forrein Counties, and had no Lands or Tenements, whereby they might be distrained, so as the Lords were (in a manner) remediless.

*Westminst. 2.  
cap. 11.  
Coke 1. Instit.  
fol. 380.*

By *Westminster, 2. cap. 11.* made in the 13. year of Edw. 1. *Exigent* is given against Accomptants, as Bayliffs, and Receivers, but not against *Guardians* in Soccage, as the Lord Cook saith, so might such Accomptants be committed

ted to prison, by Auditors, being found in Arre

There was a mischief amongst Merchants and men, for want of a more speedy recovery of their then the Common Law gave, by reason Merc' Tradesmen could not trade without ready money Merchants Strangers were enforced to stay more then their Trading required, for recovery of it And therefore the Statute of *Acton Burnel*, was 11<sup>th</sup>, of *Edw.* the 1. whereby a Statute Merchant was made; And the Body of the Cognizor made liable for moveables were not sufficient, whereupon to Debt; And afterwards the Statute *de Mercatoribus* 13<sup>th</sup>, of *Edw.* 1. adds further strength to this makes the Body, Goods, and Lands of the Cognizor in a Statute Merchant; These two Laws were for the more speedy recovery of Debts between Merchants.

The next Statute was, the 25<sup>th</sup>. *Edw.* 3. *cap.* 1. gives the like Process in Actions of Debt, as in Detinue of Cattel, and taking of Beasts.

By the 19<sup>th</sup>. of *H.* 7. *cap.* 9. like Process was made in Actions one the Case; as in Actions of Trespass, &c. the Kings Bench, or Common Pleas.

By the 23<sup>th</sup>. of *H.* 8. *cap.* 14. like Process in every Action of *Annuity* and *Covenant* is given, as in Debt.

Thus by degrees Mens Persons by several Acts of Parliament made in the Reigns of several Kings made liable to Arrests and Imprisonments: in Common as namely Actions of Debt Accompt, Detinue, Trespas, &c. upon the Case Covenant.

It is said in Sir *William Herberts Case* 3<sup>d</sup> Report Argument upon this Subject, That the Common Law founded upon the perfection of *Reason*, And that there be many great important *Reasons*, Why the Ancient Common Law should be again restored in this point Not to insist upon that, which the Lord Chief Justice

*Mischief*, that introduced the *Capias* upon the said  
 te of *Marlebridge*, which was the first Statute made  
 ch Process; Which was because Accomprants with-  
 themselves out of the power of the Lords, And  
 re the Lords obtained a *Capias* to take them, where  
 ould find them, to bring them to an Accompt;  
 he Accomprants withdrawing themselves was  
 eason for obtaining a *Capias*, if this Process make  
 urs and Accomprants more to obscure, and with-  
 themselves, so as they dare not appear to follow  
 inesse, or manage their Estates to the best advan-  
 ereby to enable themselves to pay their Debts for  
 heriffes, Bayliffs, Sergeants &c. who lye in waite  
 : It may seem a good *Reason* for taking away that  
 For when a Statute is made to remedy a *Mischief*,  
 e *Mischief* is increased by it, That may be a Ground  
 e away that Statute; as well as to make it.

*Evances*, which the Act of the 25<sup>th</sup> of *Edw.* 3. and  
 as (on which the Writts of *Capias* &c. are ground-  
 introduced upon the People and Subjects of this  
 re such; That they languish to utter Ruine in  
 ution thereof, as daily appears by these ensuing  
 Committed upon Arrests by *Capias*, *Bills* of *Mid-*  
*, Latitans &c.*

st men are Arrested oft times for pretended great  
 hen in truth the persons Arrested may owe nothing;  
 violence offered is upon *Spleen*, *Revenge*, or *Policy*:  
 persons thus Arrested, (whether the Actions be *Real*  
 igned.) if worth a 1000 *l.* more or lesse, when commit-  
 rison, are suddenly reduced to nothing by the un-  
 apacity of *Jaylers*; by which imprisonment, the  
 sustain the losse of Credit, exposed to *Cheats*  
*pression*, by pretended friends, tennants, Servants  
 whom not bereft of all endeavours and employ-  
 besides the losse of *Health*, *Separated* from their  
 dren, & Families, and what else is dear to any man;  
 left



left only to be buried alive, to be tormented with the Debaucheries of a Prison, and their own discontents; by which it appears this weapon (at the pleasure of any man to use) doth devour and rob the Kingdome of as able and active Persons to serve their Country in Peace and War, in any Condition whatsoever, as any other living in it, by destroying thousands of them in holes and Dungeons to satisfy private interest; to the great and unheard of oppression and ruine of the good People and Subjects of this Kingdome.

Secondly if the Arrest be in a Corporation, if a Stranger, he must there lye in prison, if not bailed by free men of that Corporation; if the Person so Arrested will not there lye in Prison, He must remove himself by *Habeas Corpus*, by which charge, and fees to *Jaylers, Sheriffs, Bayliffs, Sergeants, Keepers, Waiters &c.* increasing in a large proportion, the Debtor becomes greatly if not altogether disabled for the payment of his just Debts.

Thirdly, if the Prisoner Arrested be removed by *Habeas Corpus*, and brought up before a Judge, and be not there able to put in Bayle, the Prisoner is then sent to the Prison of the *Kings-Bench*, or the *Fleet*.

If to the *Kings-Bench*, then must helpe three termes there before the party that Arrested him, by the Rules of that Court, is bound to declare upon what Cause of Action the party so Arrested is imprisoned, and upon a new Action then entred may continue the Prisoner in Prison three termes longer without a Declaration, and so from three termes to three termes as long as the Creditour pleaseth, to the destruction of the Person thus causelessly and maliciously Arrested.

If Committed to the *Fleet*, there can be no Declaration filed against the Prisoner unlesse (by *Habeas Corpus*) he be brought to the Common Pleas Barr first there to be charged; And whether the Action be *Feigned* or *Real*, the Prisoner hath no remedy at all for such Arrest, wrong,

2. This ruins most men, but is loss of credit to all; besides if it be remote from *London*, it may cost 50. or 60. l.

3.

If the Arrest be made after *Trinity Term*, the party need not declare till *Easter Term* following.

Contrary to the Common Law and *Magna Charta* cap. 29.

op-

oppression, imprisonment, losse of Credit and Damage sustained in his Estate, it may be to the Ruine of him, his Wife, and Family.

4. Fourthly, the words of the Action for Debt, is but a Surmise, and it is a most desperate thing for a man to be actually imprisoned upon a Surmise onely.

(The words)  
*Debet ut dicitur.*

5. Fifthly Arrests and Imprisonments take away all industry and endeavours from all men, and by the want of mens Liberties the Kingdome sustaines great damage, The parts and abilities of mens minds and Bodies, in their several Capacities, being stifled, and buried alive in Dungeons, and loathsome Prisons; Whereas mens Liberties, and industries hath enabled thousands of men to pay their Debts, and raise their Fortunes, which by restraint had been impossible: Imprisoning and immuring of men, fitting them only to have all they have torn from them to satisfy the Cruelty of Jaylors, their Adherents, and dependants; for whilst a prisoner hath money, he may do what he list; But when all is gone, then is he put into the Common Jayle, and there buried alive; And if a poor labouring man, or Tradesman borrow or become engaged for ten or twenty pounds more or less upon his own security, or otherwise, by his Liberty and Freedom to follow his Calling, or Labour, perhaps earns thirty or forty pounds a year, and is hereby enabled to disengage, and make payment of his Debts, and to provide for his Family whilst he is so at Liberty; But when once Arrested and cast into Prison, his Credit is lost, his endeavors in his Calling, and Labour taken from him, and suddenly bereft of all he hath, and himself Wife and Children left to perish by beggery and misery; which poor man before his Arrest and Imprisonment was able by his Liberty, Labour, and endeavor to have maintained his Credit, paid his Debts, and provided for his Wife and Children.

6. Sixthly, Arrests are dangerous in the consequents, for many times men (being sensible of the sad effects that Im-  
pri-

prisonment doth produce) do fortify themselves against the same, and there upon Murthers and Man slaughters do happen to the ablest of men, both for parts, estates and qualities, and thereby become subject to the force, rudeness, and vilest usage of the worst of men, merciless, and cruel, for Bayliffs, Serjeants, and Marshals men, regard neither Age, Sex. nor condition, or quality, for that the Arrest and violent attempts made to enslave men, serves onely to enrich Under-Sheriffs, Bayliffs, Serjeants, Catchpoles, Jylors, and such like, and for maintenance of their Ryot, Excessive Drunkenness and Debauchery, for which cause they use all manner of cruelty, taking Bribes of all hands, buying and selling both Creditor and Debtor for their own profits sake, apprizing and under-selling to their own uses for the tenth part of the worth of the poor Prisoners Goods and Chattels; So the greatest part being devoured by these Canibals, the Prisoner, and his Family is thereby utterly undone, and destroyed, and the Creditor, in all things (but his malice) left altogether unsatisfied.

Seventhly, Great damages are frequently recovered against Sheriffs and Jylors upon Rescues, and escapes made, as every days experience brings forth.

Eightly charge a Prisoner in Execution, and *No habeas Corpus* and *testificandum* is admitted, or if you have a tryal such a day, and do fear the testimony of such a Person, Arrest him upon an Action of great value, that he may not find Bail, (besides the discredit he shall have) you have your ends, for he cannot come to testify; so that men by such practises are not onely buried alive as to themselves and Families as aforesaid to all purposes; But also as to all other Persons whatsoever, that necessarily may require their testimony upon ever so great concernment, either for life or estate.

Ninthly, What man of ever so great estate can tell, but that his Son or some heir of his estate, may either by their own Folly, *Suretieships*, *Outlawry*, or other Casualty, be undone,

~~As~~ Sheriffs and Jylors undone by escapes and Rescues.

8.

9.

done and so made liable to the Law in practice, to a Jayle, & all the deplorable miseries thereunto attending; Where as had he the *Heirship* (that is) the Liberty of his Person by descent, he might by his Ingenious industry raise again his Name and Family in the World; but Imprisonment makes him utterly useless to himself, his *Posterity*, and the *Generation* wherein he lives: Therefore questionless, An *Heirship* of the Liberty of a mans Person, is fare better then the Descent of a great estate.

10. If no Imprisonment, then very few or no desperate Debts contracted, for who will then lend but upon pawn; If any do, it is at his own perill, And men having no Credit, because no pawn, must fall to Labour, and industry to get their living, Credit, and pawn; And this is the best way to remedy the *Epidemical* diseases of our time, (*viz.* Idleness, Beggery and Debauchery) for a great part of Prisoners are upon the score of Debauchery, &c.
11. Take away Imprisonment, and there needs no *Protections*, which occasions often Murmurings, and sometimes abuses in Counterfeiting them.
12. If it be objected, no Credit, no Trade; 'tis answered, Trade must go on, And if Usurers will not trust, let they themselves venture their Stock at Sea and Land, but if they will not do that, but will venture upon the industry of other persons, let it not be to the suffering of the Persons whom they trust, who are (if good returns be made) their best Tenants and Servants.
13. No man will deny but that where there is most trade, there is also most Debt contracted. The Town of *Amsterdam* is one of the greatest Towns for Trading in *Europe*, and their Stock in Cash Great, so that interest there goes very Low, yet not the hundredth part of the Merchandize, so that all the rest goes upon trust: and yet few of the Debtors (proving insolvent) are Prisoners, except it be upon some Contempt, Their Policy or Mercy extends yet farther; for doth a man indebted, find himself decay-

ing, He goes to the *Magistrate* appointed for that purposes And (upon *Oath*) delivers to him his estate, and full Account thereof, for the use of his Creditors; unless his Creditors prove him perjured, he is absolved from them; And what estate he can after acquire, is his own, and he left to make farther Payment, (which proves very often as his conscience directs.) By this means men are recovered and enabled for the Good of themselves, relations, and Creditors, not buried a live in Noisome Jayles.

All Writs and Process in Law are truly intended for Remedy, and Redress, not for Revenge, Oppression, and Wrongs; as the practice is now a dayes, and is it not monstrous in Nature and reason, That a man should be allowed a Replevin, to save his beast from starving in a Pound, and that man himself onely should be shut up in Prison to perish without Hope, or Relief.

Nota.

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B

The

*The mischiefs attending Outlawries transcend  
that of the Capias, Bills of Middlesex and La-  
titats, &c.*

*Mir. Cap. 1.*

*Señ. 3.*

*Cap. 5. Señ. 1.*

*Cook Inst. 1.  
fol. 1286.*

**O**utlawed Persons are said to be *Uilegati*, that is, *Extra legem positi*, deprived of the benefit of the Law, the Penalty whereof was great, and so great, that in the Reign of King *Alfred*, and a good while after the conquest, no man could be *Outlawed*, but for Felony, the punishment whereof was death.

*Cook 2. Instans  
fol. 46.*

In *Bractons* time and somewhat before; Process of Outlawry was ordained to lie in all Actions, that were *quære vi, & Armis*, which *Bracton* calleth *Delicta*, for there the King should have a Fine.

*Cookes 1. Inst.  
f. 128. 6.*

By divers Statutes since made, As the Imprisonment of mens persons by *Capias*, Bills of *Middlesex*, *Latitats*, and *Capias ad satisfaciendum* after judgement, hath by degrees crept in, to the alteration of the Common Law, in Actions of Accompt, Debts Detinue, Covenant, Actions upon the Statute of *5. Rich. 2.* And Actions upon the Case, and in divers other Common or Civil Actions: So

*Bract. lib. 5.  
fol. 421.*

Outlawries of mens Persons thereupon hath ensued; But the mischiefs that attended the Outlawry of mens Persons, do transcend those of Arrests and Imprisonments of mens Persons, For,

1.  
All the Nobility and Peers of the Realm, are liable to this as well as the Commonalty; and the person of a Peer being Outlawed is liable to Arrests and restraints, as well as the Commoners.

First, By Outlawries before and after judgement, the Debtor suffers more then in any other thing yet known in *England*, yea more then by Man-slaughter, or Petty Larceny; for in all these things the Subjects are allowed a defence, But for this none; In all Courts, and for all Actions, the Persons concerned, must have cognizance of the proceedings, something must be committed: But an Outlawry (though supposititious and fictitious) is sufficient alone to serve the turn; for the de-



destruction of the party Outlawed; The Delinquents in Criminal Acts, for some Causes, forfeit but Chattels, and personal estate onely, and for those a Pardon of course for suing out: But upon an Outlawry the Debtors Chattels and personal estate are wholly lost, and the real estate, seized and extended for the King (who is not six pence a year benefitted) nor the Creditors one farthing. The mean profits not being in any part discounted for the Debt; and yet the Outlawed Person destroyed, and all his Creditors defeated of their just Debts, if the Debt be small the cure is worse then the disease, If a great one, the Debtor is never able to give in security ~~the~~ Reverse the Outlawry, and free the Extent upon the Outlawry, but perishes inevitably, and not a penny Chequer of the Debt lessened to the Creditor, or abated to the Leases. Debtors; nor the Kings Majesty above 5. or 10. *lbs.* a year enriched, and that consumed in Fees also.

The poor Outlawed Debtor can neither sue for, nor recover any Debt, or Rent due to him; Or try any title, 2. 4. H. 7. 17. for recovery of any estate, or let any Lease, or make his *Brook utl. 48.* last will and testament, or do any other Act to help him. *Litt. Sect. 197.* self, or his Family after his death, neither can the Son *Cookes 1. Inst. fol. 128. 6.* reverse the Fathers Outlawry after his death; so that once Outlawed after judgement or otherwise, and the whole Family is ruined for ever, and none but Sheriffs, Bayliffs, and their Officers and appendants, one farthing the better, neither can the Outlawed person sue or impleade his Oppressor and all this for Debt, (which is no Crime,) And yet Criminous persons are not Subject to, or oppressed with such merciless extremities, neither is it possible for, or in the power of any man, how provident, or clear from Debt soever, to prevent and free himself from this snare and pitfall of destruction.

A Ward might call his *Guardian* to Accompt, and was privileged from being sued in other Courts, and had Protection both of his Person and estate, but here is no 3. 18. *Edw. 4. 4.* *Nichols Vil.* *Nichols pl. 487*

Accompt for profits, nor right for wrong, no Protection of person, but oppression in all, and barred from all relief, and remedy (yea even so much as to complaine) so as the Mischief of the Outlawry transcends the *Capias*, in that the *Capias* attaches the person onely, the Outlawry Body, Lands, and Goods.

4.  
Sr. Iohn Mit-  
chels Case.

If two or three joyn to lend 100. l. or 1000. l. more or less to a third person and one of the Creditors Outlawed (though perhaps unknown) the whole Debt is forfeited to the King, and the Debtor cannot pay any of the three or two, which lent the money, so that those that are not Outlawed have lost their money, and forfeited their Debt, aswell as he, that is Outlawed.

Contrary to  
justice, that he  
that hath not  
offended  
should be  
punished, ever  
ry mans con-  
dition.

The like for Tenants in Common, if any of them be Outlawed, the whole estate of the other Tenants becomes forfeited and seized for him that is Outlawed, And the other Tennants not Outlawed shall have no remedy, nor can reverse the others Outlawry, being none of theirs; And any man may be Outlawed upon pretence of Debt, detinue, or Trespass, whether true, or false, and never know of it; the Outlawry may lie undiscovered, and the Person die under that danger to the destruction of his posterity.

5.  
9. H. 6. 20.  
49. E. 3. 5.  
4. H. 7. 17.  
Forfeitures  
are in the  
King.

Forfeitures by Outlawes go to the Crown, without benefit to the party, whose satisfaction the Law intends; And the parties thus Outlawed, are without remedy against the party that doth the wrong, and without relief as to the King, for forfeited Goods and Chattels, if not (*ex gratia*) besides the injury done in fleecing these Goods by Bayliffs, under-Sheriffs, &c. who share with the King in the greatest proportion of such forfeitures.

6.  
38. E. 3. 22.  
16. E. 4. 4.  
Brook utl. 17.  
20. H. 20.  
21. H. 7.  
13. Aff p. 5.  
3. H. 6. 20.

Outlawries bring the freehold under seizure and extents, and is exceeding chargeable to pleade unto, and to reverse, and the use which is made of seizures and extents thereon, is known to be little available towards satisfaction of Creditors their just Debts, but absolute de.

destruction to the Outlawed persons: The parties Outlawed may be sued, but cannot sue for his own; Outlawries being disablement in Law; 'tis hard to pay where men cannot receive.

These mischiefs by the corruption of Practize have crept in under this Act of 25. *Edw. 3.* Notwithstanding upon complaint of the people in the 44th. year of the same King *Edw.* It was repealed, and the Subject remitted to their former Right, according to the Common Law, and *Magna Charta*, save onely for such as were Accomptants to the King.

The Act of 25. *Edw. 3.* repealed, save to Accompts to the King.

It is not unknown to all judicious, that by the Common Law of this Nation no mans person could be Arrested in Debt or detinue, &c. the Lands Goods, and chattels of the Debtor were onely liable to Execution, which the Law allows for satisfaction of Creditors; And former times, in Cases, of Debt between Party and Party rested thereupon, the Person of the Debtor being in strict imprisonment payes not the Debt to the Creditor but most times serves the malice of the Creditor onely: And it cannot be denied that the Lords now living and (as Peers) freed from Arrests, yet pay their Debts out of their estates, as well, and better, then such as are prisoners can doe; which very president (obvious to all) makes it appear that imprisonment doth not advantage, but prejudice the Creditor, and serves onely to enrich the Jaylors, &c. By whom the prisoner is ruined: the foregoing mischiefs, troubles, Losses, oppressions and damages considered which doth daily happen by the villainous crew of Bayliffs, Seijants Jaylors, &c. to the enslaving and oppression of the Subjects; And all derived from that Act of 25. *Edw. 3.* And how repugnant the present practice is to the known Laws of the Realm, it will plainly appear that this one Nation is impoverished yearly by Sheriffs, Bayliffs, Serjeants, Marshalls men, Process makers, *Habeas Corpus*, day Writs, rules, Waiters, keepers, Jaylors, Wardens, with Bribing Sheriffs their deputies and Bayliffs for intelligence, and forbearing of Arrests,

*Cock 2. Inst. fol. 394.*

*Vide Cooks part 2. 3. 12.*

*13. H. 4. 1.*

*Malebridg. cap. 23.*

More then  
one Million  
of money spent  
yearly to en-  
slave the Na-  
tion.

rests, and persecutions besides the personal injuries and vil-  
lanies put upon men of all conditions by these tormentors  
more then one Million of pounds yearly in ready Coyne, for  
which the Creditors are not the better one penny and were  
better saved towards their satisfaction.

In short, that the practice now on foot (upon the *Capias*  
Bills of *Middlesex* Latitats and Outlawries, may be the  
more triumphant to the enslaving of all, it speaks thus.

Outlaw a Nobleman and he is made incapable to sit in  
the House of Peers, till the Outlawry be reversed, and may be  
Arrested as a Common person, being Outlawed, all his Goods  
and Chattels are forfeited, appraised, and sold by an under  
Sheriffe, and his real estate is brought under extent.

No Outlaw-  
ed person can  
be a Justice of  
peace, Con-  
stable or ty-  
thing-man

Church-war-  
den, or other  
Officer, or  
Jury-man.

Outlaw a Clergy man of what degree or Qualification so-  
ever, and his living and personal estate are both forfeited  
together, and by any under-Sheriff seized and sold as afore-  
said if he be in his Bailiwick, and his person imprisoned  
if Arrested.

Outlaw a Gentleman and it is the same, his person and e-  
state both real and personal forfeited, and himself (if Arrested)  
a Prisoner.

Outlaw any Lawyer and he is made uncapable to pleade at  
the Bar, his Person (if Arrested) imprisoned, and his estate  
both real and personal, the one extended, the other forfeited.

Outlaw any Citizen, rich in Stock, as a Merchant, Jewel-  
ler, Goldsmith or any other eminent Tradesman, what he  
hath is forfeited, and himself a prisoner, if arrested.

Outlaw any man, and he is liable to all scorne, scandalls and  
reproaches, to assault, Battery, Bastinadoe, and hazard of his  
life without remedy.

All men may be Arrested, and Outlawed under feigned  
actions, by created and suppositious mes, to their utter un-  
doing, and never find out either Plaintiff, or Attorney, to re-  
cover their damages.

Now the freeing, discharging and setting at Liberty all  
Prisoners now in Prison, and under restraint for Debt, and  
the

the Repealing of this Act of the 25 of *Edw.* 3. and all others, and the taking away all Arrests and Outlawries, and the sad consequents and effects thereof (so much contrary to *Magna Charta*, Petition of Right, and the Common Law elder then both,) is the matter aimed at, and humbly prayed for; that so the subjects may be remitted and restored to their former Laws *ab origine*; And its no new thing, when the continual Repealing in all Ages of divers Statutes, when found inconvenient, or against the Common Law, makes it manifest.

As, Tenure in Villinage.

Mortmaines on Abbies.

Knights Templers, and St. *Johns*.

The Banishment of the Jews 9. *Edw.* 1.

The Courts of Wards & Liveries, and divers others.

And it may be enacted that no person whatsoever for the future shall be arrested or out-lawed for any matter or thing whatsoever (not criminous) in the Act of 25<sup>th</sup> of *Edw.* the 3. and other Acts contained, for the avoyding the manifold mischiefs aforesaid, and the slavery in general introduced upon the whole Nation by the imprisonment of mens persons for Debt, may be abolished; Reserving to his Majesty all such Fees and other Profits upon Writs of *Summons* and other Process thereupon, as have been, or are payable upon the *Capias*, Bills of Middlesex, Latitats &c. without Diminution of any the Profits arising thereby to the Crown.

The deep sense his late Majesty (of ever blessed memory) had of the aforesaid Grievances; and many more his Peoples sufferings in the same sad condition made him intend to have recommended the condition and enlargement of Prisoners for Debt, and the abolishing of all Arrests & Out-lawries for the future to the then Parliament, and can it be doubted that his now Majesty (whom God long preserve) is lesse sensible, that the same sad & lamentable effects have of late with much great-

er Severity, and do yet attend and wait upon, or may in time happen to most men already fallen, or that may fall into and under Arrest and imprisonment.

Divers whereof have in the late intestine Warres not only adventured their lives, but in the Casualties thereof, and for their Loyalty and faithful service to his late Majestie, and his Majestie that now is, have been forced to pawn, or Mortgage their Estates, & (by the advantages taken thereupon for their forfeitures thereof) even to loose the same; The Avarice and Cruelty of most Creditours being such, as that they refuse to accept their Principal money with moderate interest.

And divers also, whose Estates (by the late Committees of *Haberdashers-hall*, *Worcester* and *Drurie* houses) were sequestred and sold and imbezled, being left to recover the same by due course of Law, are yet (after a verdict had, and judgement obtained, to be restored to their rightful possessions) defeated and kept out by Writs, pretending Error in the proceedings and such other vexatious Delaies, on purpose to continue the Possession of their Estates to such as unjustly obtained the same as aforesaid; such is the Lot and Condition of divers poor, loyal, distressed prisoners, by and under the Corruption of practise now used, whereby they have been, and are exposed to many grievous Wants in noisome Jayles and Prisons, where they are so used (if they want moneys to pay Fees or chamber rents, that most of all they either had, have, or may have, is or will be wrested from them, to the total ruine of themselves, their wives and children, contrary to the Laws of God, Nature, most Nations, *Magna Charta*, Petition of Right, and other the known Lawes of the Land.

The notorious Grievances of Writs of Error as now practised there being above 1200 at this time brought against ejectors.

And that the Exhorbitant abuses by Writs of Error now grown too frequent & most intollerable as in the case above mentioned and many more, to the great Scandal and Reproach of the Law, and the due practise thereof may be specially enquired into and redressed, and that full and ample Satis-



Satisfaction for damages sustained thereby awarded to disabled Ejectors and others sustaining wrong therein. And that there may be an exemplary punishment inflicted on all dilatory, vexatious, and fraudulent practises of this kind and condition.

May it then please His Sacred *MAJESTY*, and great Council now assembled in Parliament to take the premisses into consideration, and that mens persons now charged in prison, and chargeable with no other Crime then poverty (occasioned for the most part, by the distractions, cruelties and slaveries aforesaid) may not be the onely persons cast off, and set by, as incapable either of Memory or mercy, and in their great wisdoms not only to provide against, and redress the greivances aforesaid; But also establish some fit and ready expedient by Arbitration or otherwise to relieve and enlarge the distressed condition of many poor prisoners as aforesaid as their severall Causes and Cases may requires especially now in this day of *Englands* great Jubilee, and universal grace extended to all offenders and offences, That mens persons in durance for Debt, may be set at Liberty and all Arrests for the future taken away, that Imprisonment may not obstruct mens endeavours either at present or hereafter, but that they may have their Liberty to imploy their industry, and improve their estates for payment of their Debts as God shall enable them.

Considering withall how much Terror and sorrow of heart the people of this Realm in general, lie under, who now hide themselves; and languish to death under the fear of Imprisonment, and Arrest, consuming all their fortunes, not daring to shew themselves to Manage them to their best advantage, towards payment of their Debts, or otherwise for fear of Sheriffs, Bayliffs Serjeants, &c. The Subjects and their posterities (by this means) being Subject to slavery, liable to all Arrests, Im-  
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prisonments, and Outlawries, and on all Accidents, to Beggary, and Bondage at every mans will and pleasure; on the contrary upon the passing of an Act of Grace in these particulars depends the Good and welfare of the people; The whole Nation being manumitted and enfranchised in their persons, restored in Laws, secured in estates, and of a base, and slavish Nation made Noble and free, as they were before the Act of the 25th of *Edw.* the 3. was had.

To conclude if Traytors and Felons of all sorts expect remission and Pardon of their offences upon the blessed restauration of his Sacred *Majesty*; How is it to be doubted, but that the good Subjects of this Land and Nation (not Criminous) shall find remedy and redresse and be relieved from their sad and Lamentable Thraldome and Bondage, especially when the known Law or Equity affords the Creditor, power, for recovery of his just Debts upon the Debtors real and personal estate, which is at the dispose of the Creditor for his satisfaction. And this one Act of Grace will be accounted by all good men, and their posterities a sufficient recompence for all the Subjects past sufferings, being the greatest Mercy that ever King of *England* extended to his subjects since they were a Kingdome.

The reasons offered against these grand mischiefs are to move the Charity and relief, not the dispute of our Superiours in Authority: when the righteous are in Authority, the people rejoyce, they consider the Cause of the poor, the Prisoners and oppressed, but the wicked regard it not; when the wicked beare rule, the people mourn.

Many especially those that were thrown out of their estates by the illegall Orders of those called the

These are the sad Grievances of the Bills of *Middlesex, Lancashire, Capias*, Outlawries and *Writs of Error*, all which, Committee of obstructions, lost their Crops and profits with their estates.

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though the *last of all* at this time (before the Crop is off the ground,) most requires both serious consideration and present remedy; least *injustice* and oppression prevail, and for want of timely relief divers persons with their Families be not onely undone but inevitably perish.

*Det Deus his quoque finem.*

